

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FRANKIE MONEGRO,
Plaintiff,
-v-
AIRTURN, INC.,
Defendant.

20-CV-8353 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

Plaintiff Frankie Monegro brings this action against Defendant Airturn, Inc., claiming violations of the Americans with Disabilities Act, 42 U.S.C. §§ 12181 *et seq.*, and New York law.

This action was filed on October 7, 2020. (Dkt. No. 1.) The docket does not reflect that Plaintiff has served Defendant with the complaint. On January 25, 2021, the Court directed Plaintiff to advise the Court in writing why he has failed to serve the summons and complaint on Defendant, or, if Defendant had been served, when and in what manner such service was made. (Dkt. No. 7). The Court warned Plaintiff that if no written communication was received by February 8, 2021, the Court would dismiss the case. (*Id.*) The Court has not received any such communication.

Federal Rule of Civil Procedure 4(m) requires a defendant to be served with the summons and complaint within 90 days after the complaint is filed. Rule 4(m) requires that “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m).

Accordingly, in light of Plaintiff's failure to serve Defendant and to respond to this Court's Order, this case is DISMISSED without prejudice. The Clerk is directed to close the case.

SO ORDERED.

Dated: February 17, 2021
New York, New York



J. PAUL OETKEN
United States District Judge